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ecutrix to cancel bond for fees five years after bond's date, and the client after the attorney's death had accepted the attorney's son's legal advice and services without paying compensation, and the client had received a \$500 credit on account of the indebtedness, held that complaint was not barred by laches.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 884, 885.]

**6. Attorney and Client (§ 140\*)—Matters Affecting Amount of Fee to Be Allowed Stated.**—The amount to be allowed for retainer and counsel fees depends upon the circumstances in each case, upon the ability and standing of the attorney, the business he cannot accept because of retainer, the value of the services to the client, and other circumstances marking each instance of the employment.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 167, 168.]

Appeal from Circuit Court, Louisa County.

Bill by Gay E. Bruce, executrix of R. L. Bruce, deceased, against Mrs. Kate C. Bibb, executrix of the estate of W. E. Bibb, deceased. From a decree for the defendant, the plaintiff appeals. Amended and affirmed.

*Gordon, Gordon & Crank*, of Louisa, for appellant.

*Shackelford & Robertson*, of Orange, for appellee.

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ARMOUR FERTILIZER WORKS *v.* TAYLOR et al.

Jan. 20, 1921.

[105 S. E. 574.]

**1. Appeal and Error (§ 187 (2)\*)—Objection that Trustee in Bankruptcy Was Not Proper Party to Creditors' Suit Must Be Made Below.**—In a creditors' suit where the trustee in bankruptcy appeared in the proceedings and was recognized as a defendant by the other party and by the decree from which the appeal was taken, the objection that he was not made a party to the proceedings by formal pleading or process cannot be raised on appeal.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 549.]

**2. Mortgages (§ 546\*)—Potato Crops Not Ready for Harvest Are Part of Realty.**—Potato crops planted by tenants on land subject to prior trust deeds providing for immediate possession after sale, which were not ready for harvest on the day of the sale, were, as between the mortgagor and mortgagee, a part of the realty and passed by the sale.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 95.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**3. Landlord and Tenant (§ 95\*)—Doctrine of Emblements Does Not Apply on Foreclosure under Mortgage Made Prior to Lease.**—Foreclosure under trust deeds executed prior to leases worked an eviction of the tenants by a paramount title and a termination ab initio of their leases, and the doctrine of emblements does not apply to such cases.

**4. Mortgages (§ 565\*)—Mortgagee Takes Increased Price from Tenant's Growing Crops.**—Where the crops planted by tenants subsequent to the execution of trust deeds, but not ready for harvest on the day of sale, increased the sale price of the property, but not to such an extent that it exceeded the secured debt, the trust deed beneficiary is entitled to the portion of the sale price represented by the crop value.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 59, 60.]

**5. Mortgages (§ 567 (2)\*)—Tenant's Crop Lienor Held Entitled to Surplus of Foreclosure Sale as against Landlord's Creditors.**—One who furnished to a tenant supplies for making a crop which was growing on the premises when the property was sold under a paramount trust deed, and who had a crop lien duly executed under Code 1904, § 2494, as amended by Acts 1910, c. 345, and a written waiver of the landlord's lien, has an equitable lien on the surplus of the proceeds of the sale after payment of the secured debts, if it was less than the amount by which the crops enhanced the sale price, as against the landlord or his general creditors represented by his trustee in bankruptcy.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 105, 106.]

Appeal from Circuit Court, Accomac County.

Lien creditors' suit by the Armour Fertilizer Works and others against John W. Taylor and others. From a decree directing the payment of the surplus after sale of property under trust deeds to the trustee in bankruptcy of John W. Taylor, the Armour Fertilizer Works, as holder of a crop lien, appeals. Reversed, with directions.

*Mapp & Mapp*, of Accomac, for appellant.

*S. James Turlington*, *N. B. Wescott*, and *L. Floyd Nock*, all of Accomac, for appellees.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.